THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.5665 OF 2006

Dated: 23-03-2006

Between

S. Shamshad Begum,

W/o. S. Abdul Wahab,

Occ: Business,

R/o. Door No.20/384,

Mastan Vali Street,

Cuddapah and others.

...PETITIONERS

AND

Cuddapah Municipal Corporation,

Rep. by its Commissioner,

Cuddapah District and others.

...RESPONDENTS

ORDER:

This writ petition is filed seeking a Writ of Mandamus to declare the action of the first respondent dated 17.03.2006 in asking the petitioners to surrender their properties and hand over the original documents relating to the properties bearing Municipal Door No.17/216, Mandy Bazaar, Cuddapah of the first petitioner and Municipal Door Nos.17/211 to 215 and 17/217 to 220 Mandy Bazaar, Cuddapah, of the petitioners 2 to 10 respectively and threatening to demolish the same without adherence to the due process of law as illegal and arbitrary.

Learned counsel for the petitioners submits that the petitioners are the owners of different premises in Cuddapah town and municipality. The Cuddapah municipality has been recently upgraded as Municipal Corporation. In view of the traffic congestion and to have free flow of traffic the Cuddapah Municipal Corporation has decided to widen the roads, for which they have identified 26 roads in the entire Cuddapah municipal corporation. Learned counsel for the petitioners further submits that the petitioners are not at all against the road-widening programme of the respondents and they have no objection for the said programme if their premises are acquired and if proper compensation is paid.

The only grievance of the petitioners is that the respondents without issuing any notices, without paying any compensation for their structures or the lands and without following due process of law,
are threatening the to demolish the existing structures of the petitioners for the purpose of road-widening.

The learned counsel for the petitioners further submit that the action of respondents without following the due procedure prescribed under law and without paying any compensation either by way of private negotiations or by way of initiating proceedings under the Land Acquisition Act is utter violation of the principles of natural justice as well as Section 146 or 147 of the Municipal Corporation Act (for short 'the Act').

This Court disposed of number of writ petitions directing the respondents not to demolish the houses of the private citizens without following due process of law.

Having regard to the facts and circumstances of the case,
the writ petition is disposed of directing the respondents not to demolish the structures or take away any portion of the properties of the petitioners and not to dispossess them without following due process of law under Section 146 or 147 of the Act or by private negotiations or by initiating the proceedings under the Land Acquisition Act, 1894. No costs.

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V. ESWARAIAH, J

March 23, 2006

Note: Furnish C.C. of the order by 25.03.2006

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